

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

|                         |   |                            |
|-------------------------|---|----------------------------|
| NESBITT EDWIN MADISON,  | } |                            |
| HC SPN 00872250,        | } |                            |
| Plaintiff,              | } |                            |
| v.                      | } | CIVIL ACTION NO. H-08-1413 |
|                         | } |                            |
| DISCIPLINARY COMMITTEE, | } |                            |
| Defendant.              | } |                            |

OPINION ON DISMISSAL

Plaintiff, a detainee in the Harris County, Texas Jail has filed a civil rights complaint, alleging that he was denied due process at a disciplinary hearing. (Docket Entry No.1). Plaintiff seeks \$60,000 and an order directing the case to be removed from his record. (*Id.*). Plaintiff further seeks the appointment of counsel and a temporary restraining order. (Docket Entries No.3, No.4, No.5).

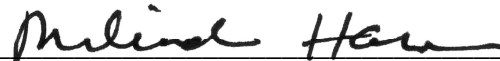
Plaintiff has also filed a motion to proceed *in forma pauperis*. (Docket Entry No.6). A prisoner, however, cannot file a civil action *in forma pauperis* in federal court if, on three or more prior occasions, while incarcerated, he brought an action that was dismissed for being frivolous, malicious, or failing to state a claim upon which relief may be granted. 28 U.S.C. § 1915(g). The only exception to revocation of an inmate's privilege to proceed *in forma pauperis* is if he is in imminent danger of serious physical harm. *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998). Plaintiff's complaint does not indicate that he is in imminent danger.

Plaintiff's litigation history reveals that he falls within the provisions of section 1915(g). See *Madison v. Atwood*, No.96-41182 (5th Cir. 1997) (barring plaintiff from filing any *pro se, in forma pauperis* civil action without advance written permission); *In re: Madison*, No.99-00015 (5th Cir. 1999) (denying motion to lift sanction order).

Accordingly, it is ORDERED that this complaint is DISMISSED under 28 U.S.C. § 1915(g). All pending motions are DENIED.

The Clerk will provide a copy of this order to the plaintiff and a copy by facsimile transmission, regular mail, or e-mail to the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas, 78711, Fax: 512-936-2159, and the District Clerk for the Eastern District of Texas, 211 West Ferguson, Tyler, Texas 75702, Attention: Manager of the Three-Strikes List.

SIGNED at Houston, Texas, this 17th day of July, 2008.

A handwritten signature in black ink, appearing to read "Melinda Harmon", is written over a horizontal line.

MELINDA HARMON  
UNITED STATES DISTRICT JUDGE